

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: February 6, 1998 Revised: _____

Subject: Economic Development

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Maclure</u>	<u>Austin</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute is an omnibus economic development bill, which through its principal provisions:

- Authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to coordinate implementation of a one-stop permit registry;
- Allows a new employee who is a Job Training Partnership Act classroom training participant or a WAGES Program participant to provide a basis for the employer job tax credit against sales or corporate income tax under the enterprise zone program, regardless of whether the employee resides in the zone;
- Provides for the establishment of an enterprise zone in a community that has a U.S. Environmental Protection Agency brownfield pilot project;
- Expands the list of eligible businesses under the urban high-crime area and rural job tax credit programs to include certain call centers or similar customer service operations;
- Specifies that a prohibition against contracting with businesses that have requested confidentiality of economic development information does not apply to a public officer, public employee, or economic development agency employee acting in an official capacity;
- Establishes a cap of the lesser of \$30 million or the amount appropriated by the Legislature on the total amount of the state share of tax refunds that may be approved for a fiscal year under the programs relating to qualified target industry (QTI) businesses, qualified defense contractors (QDC), and brownfield redevelopment;
- Makes conforming amendments to the QDC program to limit the amount of tax refunds that may be approved for a single fiscal year to the amount appropriated by the Legislature for such refunds;

- Authorizes OTTED to allow an expanding business in a rural city, a rural county, or an enterprise zone to participate in the QTI tax refund program even if the expansion project does not result in a net increase in employment of 10 percent at the business;
- Revises certain provisions governing the Florida Commission on Tourism, for example, by providing for the election of a vice chairman on an annual rather than biennial basis;
- Directs the tourism commission to establish a standing advisory committee on ecotourism and heritage tourism and to incorporate such tourism components into the overall tourism marketing plan for the state;
- Authorizes the tourism commission to establish a promotion grant program for ecotourism and heritage tourism;
- Revises the matching private fund requirements for Enterprise Florida, Inc. (EFI), to provide for the partial release of general revenue funds held in reserve upon a showing that EFI has met part of its annual fund-raising requirements;
- Limits the portion of state appropriations for the microenterprise program that may be used for administrative expenses;
- Creates the PRIDE Job Placement Incentive Program to encourage the use of correctional facilities in the economic development of the state; and
- Requires EFI to examine the current and potential contribution of the biotechnology industry and other health-technology industries to the economic development of the state.

This committee substitute substantially amends the following sections of the Florida Statutes: 14.2015, 212.096, 212.097, 212.098, 220.03, 220.181, 288.075, 288.095, 288.1045, 288.106, 288.1221, 288.1222, 288.1223, 288.1224, 288.90151, and 288.9618. This committee substitute creates section 288.9958, Florida Statutes.

II. Present Situation:

Overview

Mobilized in principal part by reforms to the welfare system enacted in 1996, which punctuated the importance of creating jobs and developing a qualified workforce, the Florida Senate in 1997 embarked upon a 2-year “Job Opportunities and Business Stimulus” (JOBS) initiative. As part of the initiative, a wide variety of business leaders testified before each of the Senate’s substantive committees and the finance and taxation subcommittee during the week of February 3, 1997, and offered a “from-the-trenches” perspective on steps state government could take to create a business environment conducive to economic growth.

Many of the ideas generated through the testimony were incorporated into measures adopted during the 1997 Legislative Session. These measures were first steps toward fostering an economy capable of generating the approximately 100,000 jobs needed to make it possible for individuals to move from welfare to work. These enactments strive to enhance Florida’s competitive position as a gateway to foreign markets, simplify permitting processes, clarify Enterprise Florida’s role in the strategic development of Florida’s economy, encourage investment

in economically distressed communities, and facilitate job-training and entrepreneurship opportunities among welfare recipients.

In June 1997, the Senate President assigned to the Commerce and Economic Opportunities Committee an interim project to begin the second phase of the JOBS initiative, with the goal of developing legislation for the 1998 session creating new programs or revising existing programs in order to foster economic development in Florida and create employment opportunities for citizens of the state. (See the Committee's report, *JOBS II: Job Opportunities and Business Stimulus*, Interim Project Report Number 97-P-06, November 1997.) In addition, the Senate held a second round of JOBS Week testimony during the week of October 6-8, 1997.

Permit Information

In 1996, the Office of Tourism, Trade, and Economic Development (OTTED) assumed responsibilities similar to those held by the former Florida Department of Commerce for evaluating the impact of the state regulatory climate on businesses and for helping businesses navigate regulatory waters. Under s. 14.2015(6), F.S., OTTED is required to report to the Legislature annually, beginning October 1, 1997, on methods to eliminate, simplify, or expedite permits, and on agency rules repealed or modified to improve the regulatory climate. In addition, OTTED is required, in its first such report to the Legislature, to provide recommendations on an operating plan and funding level for a one-stop permit registry that would provide, among other things, access by computer network to permit applications and approval requirements of state agencies. Under s. 288.7015(4), F.S., the rules ombudsman appointed by the governor is required to submit a report, similar to OTTED's, to the Legislature each December on the nexus between agency rules and economic development, including information on agency rules repealed in order to improve the state's business climate. Additionally, under s. 14.2015(2), F.S., OTTED is required to assist the governor in preparation of an annual report, due by January 1, on the state's business climate. These various statutory provisions contain potentially overlapping requirements relating to reports on rules.

In its first report to the Legislature, OTTED found that many state agencies are currently using the Internet to make agency information available to the public. OTTED's report notes the potential for the state to capitalize upon the communication power of the Internet by creating an identifiable and central point of entry into an electronic world of permit information. Using a Web site for the governor's office, for example, a gateway could be created under which businesses might provide basic information and then be linked electronically to the sites of the appropriate governmental regulatory agencies. In this fashion, a business could move through an apparent seamless system to gather regulatory information specific to its needs and circumstances. Agency sites could include relevant permit application forms and instructions for printing or downloading by the public, and ultimately might feature interactive components to facilitate the submission of application information electronically. (See *Improving Florida Business Permitting*, OTTED, December 1997.)

Urban/Rural Area Job Tax Credit Programs

The Department of Revenue has identified an apparent internal inconsistency in the statutory language authorizing the programs under which tax credits are provided to eligible businesses based upon job creation in certain distressed urban and rural communities (ss. 212.097 and 212.098, F.S.). Under the programs, a business entity that operated an eligible business in the qualified area within 48 months before the date it applies for the tax credits is not considered to be a new business. (See, e.g., s. 212.097(2)(c), F.S.) Elsewhere, however, the statute provides that a new business may apply for the program's tax credits at any time during its first year of operation. (See, e.g., s. 212.097(3), F.S.) A new business that applies for its credits five months, for example, after it begins operations would technically not meet the definition of a new business because—at the time of application—it would have violated the 48-month requirement. The department has recommended that the Legislature amend the language to clarify that the prohibition on having operated in the area would be based upon 48 months before the entire period open for credit application, rather than 48 months before the actual date of application.

Enterprise Zone Program

The Florida enterprise zone program offers incentives to businesses to invest in specifically designated areas of the state suffering from economic distress. For example, under ss. 212.096 and 220.181, F.S., a business that is located in an enterprise zone and that hires a new employee is eligible to claim a job-creation credit against sales tax or corporate income tax. In order to provide a basis for the credit, however, the new employee must be a resident of the enterprise zone (ss. 212.096(1)(c) and 220.03(1)(q), F.S.). The credit is calculated as a percentage of the new employee's monthly wages. If the new employee, in addition to living within the enterprise zone, is a Work and Gain Economic Self-sufficiency (WAGES) Program participant, a higher percentage is applied in calculating the credit (ss. 212.096(2)(b) and 220.181(1)(a), F.S.).

Prior to legislative reforms enacted in 1994, a new employee who was a recipient of Aid to Families with Dependent Children (AFDC) or was an economically disadvantaged Job Training Partnership Act participant could provide a basis for tax credits, regardless of whether the person was a resident of the enterprise zone. At that time, Florida also allowed businesses located outside an enterprise zone to claim certain credits under the program.

Confidentiality of Economic Development Leads

In working with and assisting companies that are relocating or expanding, economic development agencies compile information and records that if released could expose sensitive business information and potentially injure companies in the marketplace. Section 288.075, F.S., provides that, upon written request from a private corporation, the records of an economic development agency that contain or would provide information concerning the plans, intentions, or interests of that corporation to relocate or expand in Florida are confidential and exempt from the requirements of the state's public-records statute. Prior to 1995, this statute also provided:

No public officer or employee *acting in his individual capacity* shall enter into a binding agreement with any corporation, partnership, or person when such public officer or employee has knowledge that information concerning such corporation, partnership, or person is confidential pursuant to this section, until 90 days after such information is made public.

(s. 288.075(4), F.S. (1993), emphasis added.)

In 1995, the law was substantially amended to include within the definition of an economic development agency certain entities that are authorized by a local government to promote the general business interests of that community (s. 1, ch. 95-378, L.O.F.). When the revisions to the definition of economic development agency were adopted, the Legislature also revised the provision regarding a public officer's ability to enter into an agreement with a locating business in his individual capacity. Among other changes, the Legislature deleted from the statute the language "acting in his individual capacity." As a result, under the provision as currently written, a public officer is prohibited from entering into any binding agreement with a corporation that is considering relocating to Florida until 90 days after the disclosure of any information relative to the relocation that is being kept confidential by an economic development agency.

It appears that the pre-1995 language—by referring to the individual capacity of a public officer—was designed to prevent a public official from benefiting personally from an agreement entered into on the basis of "inside" or confidential information about an expanding or relocating company. There may, however, be valid circumstances in which the state needs to enter into an agreement with a relocating business that has requested confidentiality so its competitors in the marketplace do not use the information to their advantage. The 1995 revision may have the inadvertent effect of tying the state's hands during sensitive economic development negotiations.

Tax Refund Programs

The Qualified Tax Industry (QTI) Tax Refund Program, s. 288.106, F.S., allows new or expanding businesses in certain key industrial sectors or corporate headquarters to be approved for tax refunds of up to \$5,000 per job created (\$7,500 in an enterprise zone). To be eligible, a new business must create at least 10 full-time jobs, and an expansion of an existing business must result in a 10-percent increase in employment. Approved applicants may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, ad valorem taxes paid, and insurance premium taxes. Tax refunds are approved by OTTED, with initial application evaluation being conducted by Enterprise Florida, Inc. The refunds are paid to a participating business over a period of several years. As part of the Brownfields Redevelopment Act, ch. 97-277, L.O.F., the Legislature provided that businesses eligible for tax refunds under the QTI program could receive bonus refunds for jobs created in certain abandoned, idled, or under-used industrial and commercial properties where redevelopment is complicated by environmental contamination. (See s. 288.107, F.S.)

Similar to the QTI program, the Qualified Defense Contractor (QDC) Tax Refund Program, s. 288.1045, F.S., provides for refunds based upon jobs created or saved in Florida through the conversion of defense jobs to civilian production, the acquisition of a new defense contract, or the consolidation of a defense contract.

Refunds under both the QTI and QDC programs are subject to annual appropriation by the Legislature and require a specified local government match. Prior to the 1997 legislative session, s. 288.095, F.S., which governs the Economic Development Trust Fund, specified that OTTED could not approve refunds pursuant to the QTI and QDC programs for a given fiscal year of more than \$10 million or the amount appropriated for such refunds -- whichever was less. (See s. 288.095, F.S., 1996 Supp.) Meanwhile, the QDC statute, s. 288.1045(2)(d), F.S., cites a cap of \$25 million or the amount appropriated for refunds, whichever is less. The conflicting figures has resulted in confusion as to which figure governs.

Citing increased activity under the QTI program in particular, administrators expressed concern that the state was fast approaching the \$10 million cap and would no longer be able to permit additional businesses to participate in what is one of the state's key economic development incentives. During the 1997 Session, the Legislature removed the specific \$10 million cap from s. 288.095, F.S., clearing the way for additional use of the program; however, language was retained that refunds may not exceed the amount appropriated for those refunds.

For fiscal year 1997-98, \$4.9 million in general revenue was appropriated to satisfy the state share of pledged QTI refunds payable for that year. Program administrators have estimated, given current activity levels, that approximately \$11 million in general revenue will be required to fully pay the state share of QTI tax refunds for fiscal year 1998-99, and that the refund liability in future fiscal years could exceed \$26 million before beginning to plateau. If for any fiscal year the Legislature appropriates an amount less than the amount that will come due during that fiscal year, participating businesses would receive a portion of the tax refund for which they originally contracted. Administrators of the QTI program and other economic development professionals are seeking guidance on the long-term outlook and operation of this program.

Identification & Development of Strategic Markets

During the JOBS Week testimony before the Senate in October, several presenters emphasized that Florida's job-creation efforts could benefit from nurturing the development of certain strategically important business sectors. Two of the sectors cited were ecotourism and biotechnology/health technology.

- **Ecotourism:** Nature-based tourism, two speakers reported, is an increasingly popular vacation option for domestic and international travelers who want to experience an area's wildlife and scenic habitats, as well as its historic and cultural sites. In fact, eco-tourism was described as the fastest growing segment of the tourism industry, and an estimated 43 million U.S. residents consider themselves to be eco-tourists. When the tourism marketing functions of the Florida Department of Commerce were transferred to the Florida Commission on

Tourism in 1996, the Legislature directed the commission to create an advisory committee “charged with developing a regionally based plan to protect and promote all of the natural, coastal, historical, cultural, and commercial tourism assets of this state.” (s. 288.1224(11), F.S.) The commission was required to review the committee’s plan and submit recommendations on the plan to the Legislature by January 1, 1998. Among other elements, the plan recommended establishing a statewide ecotourism/heritage tourism advisory committee as part of the commission; encouraging local and regional ecotourism and heritage tourism planning and marketing activities; and identifying funding resources in the form of grants or other mechanisms to implement the plan’s strategies. (*Report of the Ecotourism/Heritage Tourism Advisory Committee*, Florida Commission on Tourism, Sept. 18, 1997.)

- **Biotechnology/Health Technology:** During JOBS Week II, the Senate also heard from presenters on the economic development potential of biotechnology, biomedical research and development, and health or medical technology industries. The chairman of a development stage biotechnology company, for example, testified that Florida compares favorably to other states based on several site-selection factors of importance to biotechnology firms, including: overall costs, labor costs, land availability and affordability, proximity to leading universities and medical centers, and presence of a critical mass of companies in the industry.

Some of the principal recommendations for fostering the development of biotechnology and biomedical research and development businesses included: providing intangible tax relief on the stock of certain start-up companies; simplifying the ability of small corporations to raise capital through stock offerings; removing impediments to the transfer of technology by revising provisions in ch. 112, F.S., governing the relationships between university scientists and companies created around their discoveries; supporting academic research that leads to the development of intellectual property; providing additional state support for establishment of biotechnology development institutions; and spreading the word about the state’s interest in attracting these industries.

Health technology—including the manufacture of medical apparatus, equipment, supplies, pharmaceuticals and ophthalmic goods—is an industry that EFI has identified, as part of its sector strategy approach to economic development, as presenting significant job-creation and economic potential for the state. According to EFI, Florida currently ranks third in the nation as a location for health technology firms, with such firms employing approximately 30,000 people. (*JOBS II: Job Opportunities and Business Stimulus*, Senate Interim Report Number 97-P-06, November 1997, at 12-14.)

Under s. 288.905(2)(j), F.S., EFI, as part of its strategic economic development planning, is required to identify business sectors that are of current or future importance to the Florida economy and to generate strategies for promoting the development of such sectors.

Florida Commission on Tourism

Sections 288.122-288.1227, F.S., relate to the activities of the Florida Commission on Tourism, which was created in 1992 to facilitate greater private-sector involvement in the state's tourism promotion efforts. When the Florida Department of Commerce was dissolved in 1996 (ch. 96-320, L.O.F.), tourism-promotion functions comparable to those performed by the department's Division of Tourism were assigned to the commission, and the commission's membership was expanded. Under s. 288.1224(4), F.S., the commission was directed to recommend, by December 31, 1996, the tenets of a four-year marketing plan for tourism promotion. Section 288.1223(2), F.S., which governs the membership of the commission, provides that the commission shall biennially elect a vice chairman from among its tourism-industry-related members. This section also provides that the commission shall hold its first meeting no later than September 1992 and must meet at least quarterly.

Enterprise Florida Matching Private Funds

In providing for the dissolution of the Department of Commerce and the assumption of comparable economic development, international trade, and tourism responsibilities by public-private partnerships, the Legislature in 1996 imposed upon both Enterprise Florida, Inc. (EFI), and the Florida Commission on Tourism responsibilities for generating private support for their activities.

Section 114, ch. 96-320, L.O.F., provided that an increasing percentage of the general revenue funds that EFI received each fiscal year would be placed in reserve until EFI demonstrated that private matching funds equal to the amount put in reserve had been contributed during the same fiscal year. Specifically, for fiscal year 2000-2001, the amount placed in reserve would be 50 percent of the general revenue funds appropriated to OTTED for its contract with EFI. The 1996 legislation provided broad latitude on what types of contributions could be considered private matching funds for the purposes of EFI's match requirements. During the 1997 Session, however, the Legislature revised EFI's matching private fund requirements by creating two distinct categories of such funds. The first category includes payments of cash made in response to a solicitation by EFI and used exclusively by EFI in its operations or programs. Excluded from that category are payments of cash made in connection with state or local incentive programs or received by EFI pursuant to a grant or contract. The second category of matching private funds includes conveyances of property or distribution of property or anything of value, including in-kind contributions and payments of cash not counted under the first category. Employee wages paid during training were eliminated as a form of matching funds. In addition to creating two categories of private matching funds, the Legislature specified that at least 55 percent of the matching private funds that EFI is required to raise in each fiscal year must be cash contributions under the first category. (See s. 288.90151, F.S.)

EFI and OTTED raised concerns—prior to and since adoption of the 1997 amendments—about EFI's ability to satisfy the revised private matching fund requirements. In the wake of the 1997 legislative session, participants in the Florida Economic Summit created a working group on the

issue, and OTTED coordinated a series of staff-level meetings during September and October 1997 to address this issue, inviting representatives of EFI, the Florida Tourism Industry Marketing Corporation, OTTED, and Senate and House legislative staff. Among the areas explored by the staff-level working group were what activities may be reasonably counted as cash or in-kind contributions, how contributions may be valued, and how contributions may be documented.

Some of the concerns voiced by EFI are that, particularly as its required percentage of private matching funds increases from its current level of 20 percent of general revenue funds appropriated to the fiscal year 2000-2001 level of 50 percent, EFI will have to compete with local economic development organizations for private contributions, may have to charge for services currently provided free of charge, and will have to redirect staff energies into fund-raising activities. In addition, EFI fears that, as a larger portion of its general revenue appropriation is placed in reserve each year, it will experience increased pressure to raise and collect all of the required matching private-sector contributions in the first half of the year in order to have the reserved funds released, or the organization will experience funding shortfalls in the remainder of the year.

Microenterprises

Microenterprise development is one of the options being explored by some federal and state policy makers to help create opportunities for employment, including self-employment, for individuals, particularly those who may be economically disadvantaged. A microenterprise has been described as a sole proprietorship, partnership, or family business that employs fewer than five people and that has initial credit needs ranging from \$500 to \$5,000. Amid concerns that the capital needs of small and potentially risky ventures may not be fully met by conventional lending sources, a variety of targeted lending and technical assistance programs have been developed by community, charitable, and government organizations in support of microenterprises.

Section 288.9618, F.S., which was enacted in 1997, authorizes OTTED to contract with the capital development unit of EFI or with another appropriate not-for-profit or governmental organization for actions the office deems necessary to foster the development of microenterprises in Florida. Such actions may include: coordinating microenterprise capital and assistance programs throughout the state, helping local organizations that are attempting to establish new microenterprise programs, encouraging private-sector investment in microenterprises, fostering mentoring relationships among microenterprises and other businesses, incorporating microenterprise components into the programs of EFI, providing organizational and financial support for microenterprise conferences, providing matching grants to support the operational expenses of organizations engaged in microenterprise activities, and identifying opportunities for WAGES Program participants to create microenterprises.

PRIDE & Correctional Facilities

Chapter 946, F.S., governing inmate labor and correctional work programs, allows the Florida Department of Corrections to lease land and buildings to a not-for-profit corporation authorized to operate the correctional work programs (s. 946.504, F.S.). The corporation operating under such authority is Prison Rehabilitative Industries & Diversified Enterprises, Inc. (PRIDE). PRIDE is organized as a not-for-profit corporation under ch. 617, F.S., and is led by a board of directors appointed by the governor.

Under s. 946.513, F.S., an inmate may be employed by PRIDE, or by any other private entity operating on the grounds of a correctional facility, prior to the last 24 months of the inmate's confinement. The goods produced by PRIDE in a correctional facility work program may be furnished or sold to the agencies of state government, among other organizations. (s. 946.515, F.S.)

According to PRIDE, there is an increasing trend, influenced in part by a tight labor supply, among private companies in the United States to partner with correctional facilities to utilize prison inmates in the production of goods. PRIDE reports that some Florida-based companies are currently out-sourcing some of their work to PRIDE.

III. Effect of Proposed Changes:

This committee substitute is an outgrowth of the Senate's Job Opportunities and Business Stimulus (JOBS) initiative. The measure implements several recommendations from the Senate's 1997-98 report titled *JOBS II: Job Opportunities and Business Stimulus*, Interim Project Report Number 97-P-06, November 1997. In addition, the committee substitute makes other revisions to existing economic development programs and creates new economic development initiatives not specifically addressed in the report. Following is a section-by-section analysis of the legislation.

Section 1 amends s.14.2015, F.S., governing the powers of the Office of Tourism, Trade, and Economic Development (OTTED), to authorize the office, subject to legislative appropriation, to coordinate the establishment of a one-stop permit registry, including working with all appropriate state agencies on implementation of the operational plan submitted to the Legislature in December 1997. The committee substitute also revises OTTED's annual reporting requirement relating to permit simplification and repeal or modification of agency rules, to provide for the inclusion of such information within the annual report on Florida's business climate that is required, under s. 14.2015(2)(e), F.S., to be submitted to the Legislature by January 1, thus reducing the number of reports required of OTTED.

Section 2 amends s. 212.096, F.S., relating to the enterprise zone jobs credit against sales tax, to provide that, in addition to a person who is a resident of an enterprise zone, a person who is a qualified Job Training Partnership Act (JTPA) classroom training participant or a person who is a WAGES Program participant may be considered a new employee, regardless of whether he or she

resides in the zone, and therefore may provide a basis for the credit. This revision does not change the requirement that the employer must be located within the enterprise zone.

Sections 3 and 4 amend ss. 212.097 and 212.098, F.S., relating to the Urban High-Crime Area Job Tax Credit Program and the Rural Job Tax Credit Program, to make a technical correction to the definition of a “new business” under the programs. The committee substitute clarifies that the restriction on a business having operated in the community, and still being considered a “new business,” is based upon 48 months prior to the *entire* period open for credit application, rather than upon 48 months prior to the date of actual application. The effect of this change is that a business, consistent with the provision that allows a new business to apply for credits anytime within its first year of operation, could wait until several months into its operation before applying for the credits and still be considered a new business. Sections 3-4 also provide that a call center or similar customer service operation that services a multi-state or an international market may be considered an eligible business for participation in the programs.

Sections 5 and 6 amend ss. 220.03 and 220.181, F.S., relating to the enterprise zone jobs credit against corporate income taxes, to provide that, in addition to a person who is a resident of an enterprise zone, a person who is a qualified JTPA classroom training participant or a person who is a WAGES Program participant may be considered a new employee, regardless of whether he or she resides in the zone, and therefore may provide a basis for the credit. This revision does not change the requirement that the employer must be located within the enterprise zone.

Section 7 amends s. 288.075, F.S., relating to confidentiality provided to information about a business’ plans to relocate or expand, to specify that a public officer or employee or an economic development agency employee may not enter into a contract with an entity that has requested confidentiality under the provision until 90 days after the confidential information is made public—unless the public officer or employee or economic development agency employee is acting in an official, rather than individual, capacity.

Section 8 amends s. 288.095, F.S., relating to the economic development trust fund, to provide that the combined total amount of the state share of tax refunds that may be approved by OTTED in a single fiscal year for the Qualified Target Industry Tax Refund Program, the Qualified Defense Contractor Tax Refund Program, and the brownfield redevelopment bonus program may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for such refunds for the fiscal year. The provision has the effect of establishing a statutory cap on refunds under these programs to guide administrators in assessing how many businesses can be approved to participate in the program, while retaining statutory language making the refunds subject to annual legislative appropriation. The committee substitute specifies that the statutory cap applies to the state share of tax refunds, rather than to the combined state and local tax refund.

Section 9 amends s. 288.1045, F.S., governing the Qualified Defense Contractor (QDC) Tax Refund Program, to limit the amount of refunds that may be approved in a fiscal year under this program to the amount appropriated by the Legislature for such refunds -- rather than the lesser of \$25 million or the amount appropriated, as provided in current law. The change attempts to

avoid potential confusion with Section 8 of the committee substitute, which amends s. 288.095, F.S., to establish a combined total cap on refunds under the QDC program and two other similar refund programs of \$30 million or the amount appropriated for refunds, whichever is less. (See Section 8 above.) Section 9 also changes references relating to the administration of the QDC program from the Department of Commerce to OTTED. In addition, the committee substitute replaces a *requirement* that the department adopt rules for the QDC program with permissive authority for OTTED to adopt such rules.

Section 10 amends s. 288.106, F.S., relating to the Qualified Target Industry (QTI) Tax Refund Program, to allow OTTED to permit an expanding business to participate in the program even if the expansion results in a net increase in employment of less than 10 percent at such business, provided the expansion takes place in a rural city, a rural county, or an enterprise zone. The local governing body recommending the project and Enterprise Florida, Inc., must make a written request to OTTED for relaxation of the statutory definition of an “expansion of an existing business,” which ordinarily requires the expansion to result in at least a 10 percent net increase in employment. OTTED must conclude that the merits of the individual project or the specific circumstances in the community in relationship to the project warrant the disparate treatment.

Section 11 amends s. 288.1221, F.S., relating to legislative intent on the creation of a public-private partnership for tourism promotion, to change the time period envisioned for the partnership’s tourism marketing plan to four years, from five years. The four-year time period conforms with the time period for the marketing plan that the Florida Commission on Tourism was required to prepare under s. 288.1224, F.S.

Section 12 amends s. 288.1222, F.S., relating to the definition of “tourist,” to clarify that the term includes a person who participates in trade or recreation activities outside his county, rather than country, of permanent residence. The term “country” was enacted as a result of a drafting error during revisions to this section made in 1996. (See footnote 2 to s. 288.1222, F.S.)

Section 13 amends s. 288.1223, F.S., relating to the creation and membership of the Florida Commission on Tourism, to delete an historical reference to the first meeting of the commission in favor of simply stating that the commission shall meet on at least a quarterly basis. In addition, this section provides that the commission shall elect a vice chairman on an annual, rather than biennially, basis.

Section 14 amends s. 288.1224, F.S., relating to the powers and duties of the Florida Commission on Tourism, to require the commission to establish a standing, statewide advisory committee on ecotourism and heritage tourism. This section provides for membership on the advisory committee, including representatives from government, Enterprise Florida, Inc., the private sector, and environmental organizations. The committee substitute also requires the commission to incorporate ecotourism and heritage tourism components into its overall tourism marketing plan for the state.

Section 15 provides legislative findings that tourism related to the natural, cultural, and historical assets of the state constitutes one of the fast-growing segments of the tourism industry, and that such tourism holds significant economic potential for the state. This section also includes a statement of legislative recognition that ecotourism and heritage tourism assets must be protected in order to be enjoyed future generations. The committee substitute includes a statement of the Legislature's intent to encourage the promotion of sustainable ecotourism and heritage tourism.

This section also authorizes the Florida Commission on Tourism, subject to legislative appropriation, to establish a promotion grant program for ecotourism and heritage tourism, open to governmental or not-for-profit tourism or economic development organizations in the state. Grant evaluation criteria include the employment and other economic needs of the area that is the subject of the application, the proposed linkages between tourism sites within a community or communities, whether there is a low ratio of new jobs in the area per WAGES clients, and the extent to which the application plan includes efforts to help ensure the protection of the resources.

Section 16 amends s. 288.90151, F.S., governing the matching private fund-raising requirements of Enterprise Florida, Inc. (EFI), to provide for the partial release of general revenue funds for the state's contract with EFI that are annually placed in reserve pending a showing by EFI that it has met its fund-raising requirements. Under the committee substitute, in fiscal years 1999-2000 and 2000-2001, 50 percent of the general refunds placed in reserve could be released through the budget amendment process if EFI establishes that it has reached three-quarters of its required matching private funds for the respective fiscal year. The balance could be released upon a showing that EFI had fully satisfied the fund-raising requirements for the year. The committee substitute also revises the description of payments that satisfy the required cash category of private matching funds. The measure eliminates the requirement that payments under the cash category be made in response to a *solicitation* by EFI and be used *exclusively* by EFI in its operations and programs.

Section 17 amends s. 288.9618, F.S. relating to the microenterprise program, to specify that no more than 15 percent of the funds appropriated for this program may be used for administrative expenses of OTTED or of the organization with which OTTED contracts to carry out the program.

Section 18 creates s. 288.9958, F.S., the PRIDE Job Placement Incentive Program, to encourage the use of correctional facilities in the economic development of the state. The program authorizes the Workforce Development Board of EFI to make a \$1,000 grant, payable in three increments, to the not-for-profit corporation that manages correctional work programs under ch. 946, F.S., or to a business working in association with such corporation, based upon the full-time employment of a WAGES participant. The WAGES participant must be employed in one of the five workforce development regions in the state with the fewest employment opportunities per WAGES participant. The grants are to offset costs of business location and training the local workforce. The WAGES program participant may work in a facility managed by the corporation that operates correctional work programs under ch. 946, F.S., if the Department of Corrections approves and a safety plan is developed.

Under the program, no more than \$100,000 may be awarded statewide in any fiscal year, and no more than \$25,000 may be awarded for jobs provided in a particular workforce region. Grants may not be awarded based on the employment of an individual who has participated in a prison rehabilitative industry program in the two years prior to employment.

Section 19 directs Enterprise Florida, Inc. (EFI), as part of its economic development strategy of targeting certain business sectors, to examine the current and potential contribution to the Florida economy of the biotechnology industry and other health-technology industries. This examination, which must be conducted in conjunction with representatives of the industries, is to identify impediments to the development of these businesses in Florida. The committee substitute requires EFI to report to the Legislature by October 1, 1998, with recommendations for actions to improve the business climate for these industries.

Section 20 provides for the creation of an enterprise zone in a community that has a county population of less than one million and that contains a U.S. Environmental Protection Agency brownfield pilot project which was designated as of May 1, 1997. The enterprise zone must encompass the brownfield pilot project. OTTED shall establish the initial effective date for the enterprise zone.

Section 21 provides that the act takes effect on July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Section 7 of the committee substitute amends s. 288.075, F.S., which provides a public records exemption for information held by an economic development agency relating to the plans of a business to locate, relocate, or expand its business activities in Florida. The committee substitute revises the statute's prohibition against entering into a contract with an entity that has requested confidentiality under the statute until 90 days after the information is made public, in order to clarify that the prohibition does not apply when a public officer or employee or an economic development agency employee enters into the contract in an official capacity. Because Section 7 does not affect the scope of the information afforded confidentiality, it does not fall within the requirement of Art. I, s. 24, of the Florida Constitution that public-records exemptions be enacted in bills separate from bills containing substantive provisions unrelated to public-records exemptions.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The committee substitute revises the definition of a new employee under the enterprise zone program, to allow an employee who does not reside in the zone but who is a Job Training Partnership Act classroom training participant or a WAGES Program participant to provide a basis for the employer's job credit against sales tax or corporate income tax. In addition, the committee substitute provides for the establishment of a new enterprise zone in a community that is the site of a U.S. Environmental Protection Agency brownfield pilot program. These changes expand the breath of enterprise zone program and are expected to have a negative fiscal impact. The provisions have not been reviewed yet by the revenue impact conference.

The committee substitute makes technical revisions to the definition of a "new business" under the urban high-crime area and rural job tax credit programs and also expands the list of eligible businesses under these programs to include certain call centers or customer service operations. However, the committee substitute does not alter the existing statutory caps of \$5 million in credits available annually under each of these programs.

Further, the committee substitute's establishment of a combined \$30 million statutory cap on approved refunds for a fiscal year under the tax refund programs for qualified target industry businesses, qualified defense contractors, and brownfield redevelopment does not change the provision that tax refunds are subject to annual legislative appropriation and cannot exceed the annual appropriation if it is less than \$30 million.

B. Private Sector Impact:

This committee substitute makes substantive revisions to several existing economic development incentives that are utilized by the private sector, such as the tax credit programs for rural areas or urban high-crime areas and the tax refund program for qualified target industry businesses. The committee substitute also creates new initiatives that also may be utilized by the private sector, such as the establishment of a new enterprise zone and the creation of a PRIDE Job Placement Incentive Program. The precise impact of the measure on the private sector, however, is indeterminate.

C. Government Sector Impact:

This committee substitute addresses administration of certain economic development programs and authorizes the creation of certain new programs. However, the changes do not appear to result in significant administrative costs for state or local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
